

**REMARKS**

This paper is in response to the Examiner's non-final Office Action mailed August 23, 2007. The Examiner has examined claims 1-14 and 17-36 and has rejected these claims. Applicants respectfully request withdrawal and reconsideration of the rejections and allowance of the claims in view of the foregoing amendments and the following remarks.

The amendments to the claims are supported, for example, by originally filed claim 1 and throughout the specification.

**Objections to the Specification**

The Examiner has objected to title of the application as being "not descriptive." Applicants respectfully traverse this objection and submit that the title is sufficiently descriptive.

The Examiner has objected to the abstract of the specification as not being on a separate page. In response to this objection, applicants attach hereto an abstract on a separate page.

To the extent the Examiner has objected to the content of the abstract, applicants respectfully traverse. Applicants have omitted the term "Raf kinase" in the abstract and submit that the abstract is sufficiently descriptive.

**Enablement Rejections**

**"pharmaceutically useful derivatives"**

The Examiner has rejected claims 1-14 and 17-36 as non-enabled with respect to pharmaceutically useful derivatives. Without acquiescing in the Examiner's rejection,

applicants have deleted the recitation "pharmaceutically usable derivatives" from the claims.

**"RAF kinases"**

The Examiner has rejected claims 12-13 and 17-36 as non-enabled with respect to the recitation "RAF kinases." Without acquiescing in the Examiner's rejection, applicants have deleted the recitation "Raf kinases" from the claims.

**"solvates"**

The Examiner has rejected claims 1-14 and 17-36 as non-enabled with respect to the recitation "solvates." The Examiner maintains that the formation of solvates is unpredictable and cites Vippagunta (Advanced Drug Delivery Reviews, 2001, 48, 3-26) in support of this position. Applicants respectfully traverse this rejection.

Applicants submit that methods for obtaining solvates are well known to the skilled artisan and that solvate formation is a common practice in the pharmaceutical industry. Moreover, solvate generation and examination is achievable in large numbers with the assistance of automated crystallization systems. Accordingly, applicants submit that the recitation of "solvates" in the claims does not require undue experimentation and therefore does not render the claims non-enabled.

In this regard, applicants submit herewith Chapter 8 (pages 211-233) of "Polymorphism: in the Pharmaceutical Industry" (edited by Ralf Hilfiker, Wiley-VCH, 2006).

In this Chapter, it is stated that "Solvate formation is a common phenomenon among drug substances" (page 230). This Chapter further summarizes a review of 559 organic drug compounds and concludes that solvates are known for almost 40% of these compounds (page 220):

"The 1997 edition of PhEur contained 559 well-defined

organic drug compounds. For more than 55% of them either polymorphs or solvates were known." (page 220)"

"As shown in Fig. 8.4, 29% of the compounds are known to form hydrates, 10 % other solvates"

Finally, the chapter acknowledges that automation provides for fast resolution of solvates: "solvates of drug compounds are now preferentially discovered in systematic polymorph screenings.... Automated crystallization systems and strategies have been developed to speed up this process, allowing thousands of crystallization experiments in a short time" (page 222).

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Under the law of enablement, the claim recitation "solvates" is enabled if solvates falling within the claim can be adequately made and used, without undue experimentation. Applicants note that the law of enablement does not require that the skilled artisan be able to predict the solvate structure of each and every embodiment of the claim. According, because solvate technology is well known to the skilled artisan and because methods are available (as cited above) for running "thousands of crystallization experiments in a short time," applicants submit that the recitation of "solvates" in the claims is enabled.

*"mixtures thereof in all ratios"*

The Examiner has rejected claims 1-14 and 17-36 as non-enabled with respect to the recitation "mixtures thereof in all ratios." Applicants respectfully traverse this rejection.

The Examiner maintains that the specification does not enable a "composition of two or more active ingredients in which any compound of claim 1 is involved."

Applicants respectfully submit that the specification, for example, discloses salts of the compounds of claims 1. It is well known to the skilled artisan that drug compositions may contain a certain percentage of active ingredient in a salt form and a percentage in a non-salt form. Therefore, an example of two active ingredients is provided in the specification.

The Examiner also poses the following questions

"Do all possible combinations work?"

"Do some combinations have adverse side effects,  
making them dangerous?"

Applicants respectfully submit that the Examiner's questions are not relevant to the legal enablement inquiry. The enablement inquiry is whether the specification provides enabled embodiments commensurate with the scope of the claim in question. Applicants submit that issues of drug side effects and drug efficacy are within the jurisdiction of the Food & Drug Administration and not the USPTO.

### **Indefiniteness Rejection**

The Examiner has rejected claim 11 as indefinite because the claim recitation "at least 1 compound of claim 1" is vague. Applicants submit that this language is not vague and that "at least 1" means "one or more" and that this term is not unclear.

### **Objections to the Claims**

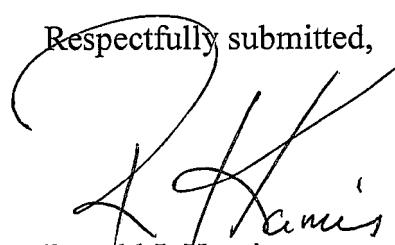
The Examiner has found the elected species to be allowable subject matter; however, the Examiner has objected to claims 1 and 9 as containing non-elected

subject matter. Applicants submit that the election of species rules require that upon finding that the species elected by the applicant is allowable, the Examiner is required to search a reasonable number of additional species. Applicants submit that the claims may be reasonable searched by the Examiner.

### CONCLUSION

Applicants respectfully request reconsideration and withdrawal of the Examiner's rejections based on the foregoing. The Examiner is invited to contact the undersigned with respect to any questions on matters related to the prosecution of this application.

Respectfully submitted,



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